

AMENDMENTS TO THE DRAWINGS:

The attached drawing includes changes to FIG. 4. The sheet containing FIG. 4 replaces the original sheet including FIG. 4. FIG. 4 has been amended to illustrate the reference number 218a.

REMARKS

Claims 1-2, 4-11 and 16 are pending and under consideration. The specification, FIG. 4 and claim 16 are amended herein.

The objection to the specification regarding claim 1 is overcome by the present amendments to the specification.

As to the objection regarding claim 15, the specification describes the shape tape 218 and the crown 210. Page 4, line 16 of the present specification states that the head receiving portion may be a crown or a head band. Thus, the head receiving portion (crown 210) is a different element from the shape tape 218 in light of their different reference numerals.

Regarding the 35 U.S.C. § 112 rejection of claim 16, the present amendments overcome this rejection.

The rejections under 35 U.S.C. § 103 are respectfully traversed. Independent claim 1 recites the shape tape having a free upper portion not attached to the head receiving portion or the sweat band. It was previously argued that the plastic 21 of Higgs attaches to the top and bottom portions of the cloth 20. At page 6 of the present Office Action, the Examiner relies upon column 7, lines 10-15 of Higgs. However, this portion refers to the attachment of the sleeve 23 to the elastic band 24. This portion does not discuss the attachment of the plastic 21.

The Office Action also states that "Applicant fails to show or point to the means by which the shape tape is attached." However, it is not necessary for the Applicant to show the specific means of attachment, only that attachment exists. Fig. 4 of Higgs illustrates the encircling edge 10 of the crown conforms to the shape of the plastic 21. This shape conformation indicates that the edge 10 and plastic 21 are attached in some manner.

The remaining references do not overcome these deficiencies in Higgs.

Accordingly, withdrawal of the rejections is requested.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

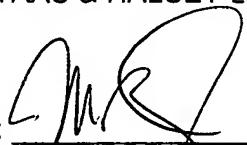
Serial No. 10/763,224

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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By: 
Michael J. Badagliacca
Registration No. 39,099

1201 New York Avenue, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501